

SENATE BILL 959

K4
SB 710/09 – B&T

0lr2495

By: **Senator Miller**
Introduced and read first time: February 18, 2010
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Local Employer Contributions**
3 **– Educators and Educational Staff**

4 FOR the purpose of providing for the calculation of a payment of a certain portion of
5 employer contributions for certain members of the Teachers' Retirement System
6 or the Teachers' Pension System; requiring counties to pay a certain amount of
7 employer contributions for certain members of the Teachers' Retirement System
8 or the Teachers' Pension System; requiring the State to pay, under certain
9 circumstances, a certain portion of certain employer contributions for certain
10 members of the Teachers' Retirement System or the Teachers' Pension System;
11 altering the amount of employer contributions the State is required to pay for
12 certain members of the Teachers' Retirement System or the Teachers' Pension
13 System; providing for the method of payment each county is required to make to
14 the Board of Trustees for the State Retirement and Pension System regarding a
15 certain portion of employer contributions for certain members of the Teachers'
16 Retirement System or the Teachers' Pension System; defining certain terms;
17 and generally relating to the payment of employer contributions for members in
18 the State Retirement and Pension System who are educators or educational
19 staff.

20 BY repealing and reenacting, with amendments,
21 Article – State Personnel and Pensions
22 Section 21–304
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2009 Supplement)

25 BY adding to
26 Article – State Personnel and Pensions
27 Section 21–309.1
28 Annotated Code of Maryland
29 (2009 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 Preamble

2 WHEREAS, The State of Maryland must resolve a deficit of almost \$2.5 billion
3 in fiscal year 2011 and anticipated deficits of hundreds of millions in all 6 years shown
4 in the forecast for the State budget; and

5 WHEREAS, State General Fund expenditures made on behalf of local
6 governments to subsidize the cost of pension benefits for teachers employed by the
7 local governments are increasing by 9% when overall General Fund expenditures for
8 the entire State budget are actually decreasing by 2% in fiscal year 2011; and

9 WHEREAS, The State Retirement and Pension System lost \$8 billion between
10 July 2008 and July 2009; and

11 WHEREAS, The situation has become so dire that the Governor is proposing to
12 lay off 700 to 900 State employees in the fiscal 2011 budget; and

13 WHEREAS, All counties in the State of Maryland have collective bargaining for
14 public school teachers; and

15 WHEREAS, The collective bargaining process is intended to apply to all terms
16 and conditions of employment; and

17 WHEREAS, The State of Maryland currently funds all teachers' pension
18 benefits on behalf of local governments thereby removing a critical term and condition
19 of employment from the collective bargaining process between public school teachers
20 and their employers; and

21 WHEREAS, The State has no control over cost increases in pension benefit
22 payments that are incurred by salary increases approved for public school employees
23 at the local level; and

24 WHEREAS, State payment of pension benefits on behalf of employees not
25 directly employed by the State has no clear policy justification; and

26 WHEREAS, Pension contribution payments made by the State on behalf of local
27 governments are a subsidy to local government and do not constitute direct education
28 aid; and

29 WHEREAS, State pension costs for the Teachers' Retirement and Pension
30 systems have increased by approximately \$246 million in the last 3 fiscal years; and

31 WHEREAS, The long-term funding by the State of all costs associated with the
32 Teachers' Retirement and Pension systems are not sustainable; now, therefore,

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
34 MARYLAND, That the Laws of Maryland read as follows:

1 **Article – State Personnel and Pensions**

2 21–304.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) “Full funding rate” means the sum of:

5 (i) the aggregate normal rate that is based on the normal
6 contribution rate calculated under subsection [(c)] (D) of this section and adjusted to
7 incorporate legislative changes in benefits to reflect changes to the normal cost; and

8 (ii) the aggregate unfunded accrued liability contribution rate
9 that is based on the unfunded accrued liability contribution rate under subsection
10 [(d)(1)] (E)(1) and (2) of this section.

11 (3) “Funding ratio for the employees’ systems” means the actuarial
12 value of assets for the employees’ systems divided by the actuarial accrued liability for
13 the employees’ systems.

14 (4) “Funding ratio for the teachers’ systems” means the actuarial
15 value of assets for the teachers’ systems divided by the actuarial accrued liability for
16 the teachers’ systems.

17 **(5) “LOCAL EMPLOYEES” MEANS THOSE MEMBERS OF THE**
18 **TEACHERS’ RETIREMENT SYSTEM OR THE TEACHERS’ PENSION SYSTEM WHO**
19 **ARE:**

20 **(I) EMPLOYEES OF A DAY SCHOOL IN THE STATE UNDER**
21 **THE AUTHORITY AND SUPERVISION OF A COUNTY BOARD OF EDUCATION OR THE**
22 **BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS, EMPLOYED AS:**

23 **1. A CLERK;**

24 **2. A HELPING TEACHER;**

25 **3. A PRINCIPAL;**

26 **4. A SUPERINTENDENT;**

27 **5. A SUPERVISOR; OR**

28 **6. A TEACHER;**

1 **(II) LIBRARIANS OR CLERICAL EMPLOYEES OF A LIBRARY**
 2 **THAT IS ESTABLISHED OR OPERATES UNDER THE EDUCATION ARTICLE; OR**

3 **(III) FACULTY, PROFESSIONAL, OR CLERICAL EMPLOYEES OF**
 4 **A COMMUNITY COLLEGE THAT IS ESTABLISHED UNDER THE EDUCATION**
 5 **ARTICLE.**

6 **(6) “LOCAL SHARE” MEANS THAT PORTION OF THE TOTAL**
 7 **EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES THAT:**

8 **(I) EXCEEDS THE TOTAL EMPLOYER CONTRIBUTION FOR**
 9 **LOCAL EMPLOYEES THAT WAS CALCULATED FOR FISCAL YEAR 2011; AND**

10 **(II) IS SOLELY ATTRIBUTABLE TO:**

11 **1. SALARY INCREASES ON OR AFTER JULY 1, 2010,**
 12 **FOR LOCAL EMPLOYEES; AND**

13 **2. THE HIRING OF NEW LOCAL EMPLOYEES ON OR**
 14 **AFTER JULY 1, 2010.**

15 **[(5)] (7) “State member” does not include a member on whose behalf**
 16 **a participating governmental unit is required to make an employer contribution under**
 17 **§ 21–305 or § 21–306 of this subtitle.**

18 **(8) “TOTAL EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES”**
 19 **MEANS THAT PORTION OF THE EMPLOYER CONTRIBUTION CALCULATED UNDER**
 20 **SUBSECTION (B) OF THIS SECTION THAT IS ATTRIBUTABLE TO THE LOCAL**
 21 **EMPLOYEES OF EACH COUNTY.**

22 **(b) (1) [Each] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS**
 23 **SECTION, EACH** fiscal year, on behalf of the State members of each State system, the
 24 State shall pay to the appropriate accumulation fund an amount equal to or greater
 25 than the sum of the amount, if any, required to be included in the budget bill under §
 26 3–501(c)(2)(ii) of this article and the product of multiplying:

27 **(i) the aggregate annual earnable compensation of the State**
 28 **members of that State system; and**

29 **(ii) 1. for State members of the Law Enforcement Officers’**
 30 **Retirement System, State Police Retirement System, and the Judges’ Retirement**
 31 **System, the sum of the normal contribution rate and the accrued liability contribution**
 32 **rate, as determined under this section;**

1 2. for State members of the Employees' Pension System,
2 Employees' Retirement System, Correctional Officers' Retirement System, and
3 Legislative Pension Plan, the employees' systems contribution rate determined under
4 subsection [(e)] (F) of this section; or

5 3. for State members of the Teachers' Pension System
6 and Teachers' Retirement System, the teachers' systems contribution rate determined
7 under subsection [(f)] (G) of this section.

8 (2) The amount determined under paragraph (1) of this subsection for
9 each State system shall be based on an actuarial determination of the amounts that
10 are required to preserve the integrity of the funds of the several systems using:

11 (i) the entry-age actuarial cost method; and

12 (ii) actuarial assumptions adopted by the Board of Trustees.

13 (3) For the purpose of making the determinations required under this
14 section:

15 (i) the Employees' Retirement System, the Employees' Pension
16 System, the Correctional Officers' Retirement System, and the Legislative Pension
17 Plan shall be considered together as one State system; and

18 (ii) the Teachers' Retirement System and the Teachers' Pension
19 System shall be considered together as one State system.

20 **(C) (1) (I) THIS PARAGRAPH DOES NOT APPLY TO BALTIMORE**
21 **CITY COMMUNITY COLLEGE.**

22 **(II) BEGINNING JULY 1, 2011, ON BEHALF OF THE LOCAL**
23 **EMPLOYEES OF EACH COUNTY, EACH COUNTY SHALL PAY EACH FISCAL YEAR TO**
24 **THE APPROPRIATE ACCUMULATION FUND AN AMOUNT EQUAL TO OR GREATER**
25 **THAN THE LOCAL SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL**
26 **EMPLOYEES.**

27 **(III) 1. FOR A REGIONAL COMMUNITY COLLEGE, AS**
28 **DEFINED UNDER § 16-202 OF THE EDUCATION ARTICLE, THE OBLIGATION OF**
29 **THE LOCAL SHARE OF THE TOTAL EMPLOYER CONTRIBUTION FOR LOCAL**
30 **EMPLOYEES SHALL BE SHARED BY EACH COUNTY SUPPORTING THE REGIONAL**
31 **COMMUNITY COLLEGE.**

32 **2. EACH COUNTY'S SHARE SHALL BE PRORATED BY**
33 **DIVIDING THE NUMBER OF FULL-TIME EQUIVALENT STUDENTS AS CALCULATED**
34 **UNDER § 16-305(B)(7) OF THE EDUCATION ARTICLE FOR THE SECOND PRIOR**
35 **FISCAL YEAR, WHO ARE ENROLLED AT THE REGIONAL COMMUNITY COLLEGE**

1 AND ARE RESIDENTS OF THE COUNTY, BY THE TOTAL NUMBER OF FULL-TIME
 2 EQUIVALENT STUDENTS AS CALCULATED UNDER § 16-305(B)(7) OF THE
 3 EDUCATION ARTICLE FOR THE SECOND PRIOR FISCAL YEAR WHO ARE
 4 RESIDENTS OF THE REGION.

5 (2) (I) THE DIFFERENCE BETWEEN THE TOTAL EMPLOYER
 6 CONTRIBUTION FOR LOCAL EMPLOYEES AND THE LOCAL SHARE OF THE TOTAL
 7 EMPLOYER CONTRIBUTION FOR LOCAL EMPLOYEES FOR EACH COUNTY SHALL
 8 BE THE OBLIGATION OF THE STATE.

9 (II) IN ADDITION TO ANY PAYMENTS MADE BY THE STATE
 10 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE STATE SHALL PAY 100%
 11 OF THE AMOUNT DETERMINED UNDER SUBSECTION (B) OF THIS SECTION FOR
 12 THOSE MEMBERS OF THE TEACHERS' RETIREMENT SYSTEM OR TEACHERS'
 13 PENSION SYSTEM WHO ARE:

14 1. FACULTY, PROFESSIONAL, OR CLERICAL
 15 EMPLOYEES OF BALTIMORE CITY COMMUNITY COLLEGE;

16 2. FACULTY EMPLOYEES OF AN EDUCATIONAL
 17 INSTITUTION, OTHER THAN A COMMUNITY COLLEGE, SUPPORTED BY AND
 18 UNDER THE CONTROL OF THE STATE; OR

19 3. STAFF EMPLOYEES OF THE UNIVERSITY SYSTEM
 20 OF MARYLAND, MORGAN STATE UNIVERSITY, OR ST. MARY'S COLLEGE OF
 21 MARYLAND WHO WERE MEMBERS OF THE TEACHERS' PENSION SYSTEM AS OF
 22 JANUARY 1, 1998, OR WHO TRANSFERRED FROM THE TEACHERS' RETIREMENT
 23 SYSTEM ON OR AFTER JANUARY 1, 1998.

24 [(c)] (D) (1) As part of each actuarial valuation, the actuary shall
 25 determine the normal contributions, net of member contributions, on account of the
 26 State members of each State system.

27 (2) For each State system, the normal contribution rate equals the
 28 fraction that has:

29 (i) as its numerator, the sum of the normal contributions
 30 determined under this subsection; and

31 (ii) as its denominator, the aggregate annual earnable
 32 compensation of the State members of the State system.

33 [(d)] (E) (1) Beginning July 1, 2001, each year the Board of Trustees
 34 shall set contribution rates for each State system that shall amortize:

1 (i) all unfunded liabilities or surpluses accrued as of June 30,
2 2000, over 20 years; and

3 (ii) any new unfunded liabilities or surpluses that have accrued
4 from July 1 of the preceding fiscal year over 25 years to reflect:

5 1. experience gains and losses;

6 2. the effect of changes in actuarial assumptions; and

7 3. the effect of legislation effective on or after July 1,
8 2001.

9 (2) If the accrued liability is increased by legislation that provides for
10 early retirement of State employees, the additional liability shall be funded over a
11 period of 5 years beginning on:

12 (i) July 1, 1997 for legislation effective June 1, 1996; and

13 (ii) July 1, 1998 for legislation effective June 1, 1997.

14 (3) If the accrued liability is increased by legislation effective June 1,
15 1998, that provides for the early retirement of employees of the University System of
16 Maryland who are members of the Employees' Pension System or the Employees'
17 Retirement System, the additional liability shall be determined by the actuary and
18 funded over a period of 5 years beginning on July 1, 1999 by payment of an annual
19 accrued liability contribution by the University System of Maryland and the Medical
20 System as provided in § 21-307(h) and (i) of this subtitle.

21 **[(e)] (F)** (1) When the funding ratio for the employees' systems is
22 between 90% and 110%, inclusive, the employees' system contribution rate is the rate
23 for the previous fiscal year, adjusted to reflect legislative changes that result in
24 changes in normal cost and to amortize over 25 years any actuarial liabilities of the
25 employees' systems.

26 (2) When the funding ratio for the employees' systems is below 90%,
27 the employees' system contribution rate shall be the sum of:

28 (i) the employees' system contribution rate for the previous
29 fiscal year; and

30 (ii) 20% of the difference between the full funding rate for the
31 current fiscal year and the employees' system contribution rate for the previous fiscal
32 year.

33 (3) When the funding ratio for the employees' systems is above 110%,
34 the employees' system contribution rate shall be the difference between:

1 (i) the employees' system contribution rate for the previous
2 fiscal year; and

3 (ii) 20% of the difference between the employees' system
4 contribution rate for the previous fiscal year and the full funding rate for the current
5 fiscal year.

6 **[(f)] (G)** (1) When the funding ratio for the teachers' systems is between
7 90% and 110%, the teachers' system contribution rate is the rate for the previous fiscal
8 year, adjusted to reflect legislative changes that result in changes in normal cost and
9 to amortize over 25 years any actuarial liabilities of the teachers' systems.

10 (2) When the funding ratio for the teachers' systems is below 90%, the
11 teachers' system contribution rate shall be the sum of:

12 (i) the teachers' system contribution rate for the previous fiscal
13 year; and

14 (ii) 20% of the difference between the full funding rate for the
15 current fiscal year and the teachers' system contribution rate for the previous fiscal
16 year.

17 (3) When the funding ratio for the teachers' systems is above 110%,
18 the teachers' system contribution rate shall be the difference between:

19 (i) the teachers' system contribution rate for the previous fiscal
20 year; and

21 (ii) 20% of the difference between the teachers' system
22 contribution rate for the previous fiscal year and the full funding rate for the current
23 fiscal year.

24 **21-309.1.**

25 **(A) EACH YEAR, THE BOARD OF TRUSTEES SHALL CERTIFY TO EACH**
26 **COUNTY THE STATE'S NORMAL CONTRIBUTION RATE AND THE STATE'S**
27 **ACCRUED LIABILITY CONTRIBUTION RATE AND THE AMOUNTS PAYABLE UNDER**
28 **§ 21-304(C) OF THIS SUBTITLE.**

29 **(B) (1) EACH COUNTY SHALL PAY TO THE BOARD OF TRUSTEES THE**
30 **AMOUNT OF THE CHARGES CERTIFIED TO THE COUNTY BY THE BOARD OF**
31 **TRUSTEES UNDER SUBSECTION (A) OF THIS SECTION.**

1 **(2) WITHIN 30 DAYS AFTER RECEIVING THE CERTIFICATION BY**
2 **THE BOARD OF TRUSTEES, THE COUNTY SHALL PAY THAT AMOUNT TO THE**
3 **BOARD OF TRUSTEES.**

4 **(3) IF A COUNTY DOES NOT PAY THE AMOUNTS CERTIFIED UNDER**
5 **THIS SECTION WITHIN THE TIME REQUIRED, IT IS LIABLE FOR:**

6 **(I) A PENALTY OF 10% OF THE AMOUNT DUE; AND**

7 **(II) INTEREST ON DELINQUENT AMOUNTS AT 10% A YEAR**
8 **UNTIL PAYMENT.**

9 **(4) THE SECRETARY OF THE BOARD OF TRUSTEES MAY ALLOW A**
10 **GRACE PERIOD FOR PAYMENT OF THE AMOUNTS CERTIFIED UNDER THIS**
11 **SECTION NOT TO EXCEED 10 CALENDAR DAYS.**

12 **(5) ON NOTIFICATION BY THE SECRETARY OF THE BOARD OF**
13 **TRUSTEES THAT A DELINQUENCY EXISTS, THE COMPTROLLER IMMEDIATELY**
14 **SHALL EXERCISE THE RIGHT OF SETOFF AGAINST ANY MONEY DUE OR COMING**
15 **DUE TO THAT COUNTY FROM THE STATE.**

16 **(c) ON RECEIPT OF THE PAYMENTS FROM EACH COUNTY, THE BOARD**
17 **OF TRUSTEES SHALL CREDIT THESE AMOUNTS TO THE ACCUMULATION FUND**
18 **OF THE APPROPRIATE STATE SYSTEM.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2010.